



February 2, 2001

SENATE BILL No. 4

DIGEST OF SB 4 (Updated January 30, 2001 11:57 AM - DI 92)

Citations Affected: IC 9-13; IC 9-21.

Synopsis: Automated traffic law enforcement systems. Relocates the definition of "traffic control device" for purposes of the motor vehicle code. Defines "automated traffic law enforcement system" as a device that has one or more motor vehicle sensors working in conjunction with a traffic control signal with steady red indication or illuminated flashing red light and that produces a photographically recorded image of a motor vehicle proceeding through an intersection. Also defines "traffic control signal". Allows a local authority to adopt and enforce an ordinance under which the owner of a motor vehicle commits a violation when an automated traffic law enforcement system produces a recorded image of the motor vehicle proceeding through the intersection contrary to the requirement to stop at a red light. Establishes certain defenses that may be raised in a proceeding to enforce an ordinance concerning automated traffic law enforcement systems. Makes conforming changes. Provides that an ordinance may not impose a civil penalty exceeding \$100. Authorizes an ordinance to provide for the mailing of warning notices in lieu of imposing a civil penalty.

Effective: July 1, 2001.

Adams K, Wyss, Meeks C, Craycraft

January 8, 2001, read first time and referred to Committee on Transportation and Interstate Cooperation.
February 1, 2001, amended, reported favorably — Do Pass.

SB 4—LS 6114/DI 96+



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February 2, 2001

First Regular Session 112th General Assembly (2001)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2000 General Assembly.

SENATE BILL No. 4

A BILL FOR AN ACT to amend the Indiana Code concerning motor vehicles.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 9-13-2-5.5 IS ADDED TO THE INDIANA CODE
2 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
3 1, 2001]: **Sec. 5.5. "Automated traffic law enforcement system", for**
4 **purposes of IC 9-21, has the meaning set forth in IC 9-21-3.5-2.**

5 SECTION 2. IC 9-13-2-182.3 IS ADDED TO THE INDIANA
6 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
7 [EFFECTIVE JULY 1, 2001]: **Sec. 182.3. "Traffic control device",**
8 **for purposes of IC 9-21, has the meaning set forth in IC 9-21-1-0.3.**

9 SECTION 3. IC 9-13-2-182.5 IS ADDED TO THE INDIANA
10 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
11 [EFFECTIVE JULY 1, 2001]: **Sec. 182.5. "Traffic control signal",**
12 **for purposes of IC 9-21, has the meaning set forth in IC 9-21-1-0.5.**

13 SECTION 4. IC 9-21-1-0.3 IS ADDED TO THE INDIANA CODE
14 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
15 1, 2001]: **Sec. 0.3. As used in this article, "traffic control device"**
16 **means a sign, signal, marking, or device, including a railroad**
17 **advance warning sign, not inconsistent with this title, placed or**

SB 4—LS 6114/DI 96+



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erected by authority of a public body or an official having jurisdiction for purposes of regulating, warning, or guiding traffic.

SECTION 5. IC 9-21-1-0.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: **Sec. 0.5. As used in this article, "traffic control signal" means an electrical power operated traffic control device other than a:**

(1) barricade warning light;

(2) mobile flashing arrow; or

(3) steady burning electric lamp;

by which traffic is warned or directed to take some specific action.

SECTION 6. IC 9-21-1-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: **Sec. 3. (a)** A local authority, with respect to streets and highways under the authority's jurisdiction and within the reasonable exercise of the police power, may do the following:

(1) Regulate the standing or parking of vehicles.

(2) Regulate traffic by means of police officers or traffic control signals, **including the enforcement by use of automated traffic law enforcement systems.**

(3) Regulate or prohibit processions or assemblages on the highways.

(4) Designate a highway as a one-way highway and require that all vehicles operated on the highway be moved in one (1) specific direction.

(5) Regulate the speed of vehicles in public parks.

(6) Designate a highway as a through highway and require that all vehicles stop before entering or crossing the highway.

(7) Designate an intersection as a stop intersection and require all vehicles to stop at one (1) or more entrances to the intersection.

(8) Restrict the use of highways as authorized in IC 9-21-4-7.

(9) Regulate the operation of bicycles and require the registration and licensing of bicycles, including the requirement of a registration fee.

(10) Regulate or prohibit the turning of vehicles at intersections.

(11) Alter the prima facie speed limits authorized under IC 9-21-5.

(12) Adopt other traffic regulations specifically authorized by this article.

(13) Adopt traffic regulations governing traffic control on public school grounds when requested by the governing body of the school corporations.

(b) An ordinance or regulation adopted under subsection (a)(4),



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(a)(5), (a)(6), (a)(7), (a)(8), (a)(10), (a)(11), (a)(12), or (a)(13) is effective when signs giving notice of the local traffic regulations are posted upon or at the entrances to the highway or part of the highway that is affected.

SECTION 7. IC 9-21-1-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 8. (a) This section applies to the person who drives an authorized emergency vehicle when:

- (1) responding to an emergency call;
- (2) in the pursuit of an actual or suspected violator of the law; or
- (3) responding to, but not upon returning from, a fire alarm.

(b) The person who drives an authorized emergency vehicle may do the following:

- (1) Park or stand, notwithstanding other provisions of this article.
- (2) Proceed past a red ~~or stop~~ **traffic control** signal or ~~stop sign,~~ **traffic control device**, but only after slowing down as necessary for safe operation.
- (3) Exceed the maximum speed limits if the person who drives the vehicle does not endanger life or property.
- (4) Disregard regulations governing direction of movement or turning in specified directions.

(c) This section applies to an authorized emergency vehicle only when the vehicle is using audible or visual signals as required by law. An authorized emergency vehicle operated as a police vehicle is not required to be equipped with or display red and blue lights visible from in front of the vehicle.

(d) This section does not do the following:

- (1) Relieve the person who drives an authorized emergency vehicle from the duty to drive with due regard for the safety of all persons.
- (2) Protect the person who drives an authorized emergency vehicle from the consequences of the person's reckless disregard for the safety of others.

SECTION 8. IC 9-21-3-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 2. (a) Each traffic **control** signal installation on a street or highway within Indiana may be erected only after the completion of traffic engineering studies that verify that the traffic ~~signal~~ control **signal** is necessary as set forth in the Indiana Manual on Uniform Traffic Control Devices for Streets and Highways.

(b) If:

- (1) the proposed installation is in the immediate vicinity of a school; and
- (2) the installation does not meet the requirements of this section;



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the governmental unit responsible for the control of traffic at the location shall grant a special hearing on the question to a person who has properly petitioned for the installation of a traffic **control** signal.

SECTION 9. IC 9-21-3-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 3. Each traffic **control** signal upon a street or highway in Indiana that does not conform to this chapter shall be removed by the governmental agency having jurisdiction over the highway.

SECTION 10. IC 9-21-3-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 4. The Indiana department of transportation is responsible for the control of all traffic **control** signals on the state highway system.

SECTION 11. IC 9-21-3-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 5. A traffic **control** signal installation on a state route is the property of the Indiana department of transportation.

SECTION 12. IC 9-21-3-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 6. (a) Except as provided in subsection (b), a public or private agency may not erect a traffic control device on a state maintained highway without the written permission of the Indiana department of transportation.

(b) This subsection applies to the installation of traffic **control** signals on a state highway in a city or town. The Indiana department of transportation shall:

- (1) install any **traffic control** signal that meets the standards, specifications, and warrants set forth in the Indiana Manual on Uniform Traffic Control Devices for Streets and Highways; or
- (2) grant written permission to a city or town to erect the **traffic control** signal if it is not possible for the state immediately to install the **traffic control** signal.

SECTION 13. IC 9-21-3-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 7. (a) Whenever traffic is controlled by traffic control signals exhibiting different colored lights or colored lighted arrows successively, one (1) at a time or in combination, only the colors green, red, or yellow may be used, except for special pedestrian signals under IC 9-21-18.

(b) The lights indicate and apply to drivers of vehicles and pedestrians as follows:

- (1) Green indication means the following:
 - (A) Vehicular traffic facing a circular green signal may proceed straight through or turn right or left, unless a sign at the place prohibits either turn.



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(B) Vehicular traffic, including vehicles turning right or left, shall yield the right-of-way to other vehicles and to pedestrians lawfully within the intersection or an adjacent sidewalk at the time the signal is exhibited.

(C) Vehicular traffic facing a green arrow signal, shown alone or in combination with another indication, may cautiously enter the intersection only to make the movement indicated by the green arrow or other movement permitted by other indications shown at the same time.

(D) Vehicular traffic shall yield the right-of-way to pedestrians lawfully within an adjacent crosswalk and to other traffic lawfully using the intersection.

(E) Unless otherwise directed by a pedestrian control signal, pedestrians facing a green signal, except when the sole green signal is a turn arrow, may proceed across the roadway within a marked or unmarked crosswalk.

(2) Steady yellow indication means the following:

(A) Vehicular traffic facing a steady circular yellow or yellow arrow signal is warned that the related green movement is being terminated and that a red indication will be exhibited immediately thereafter.

(B) A pedestrian facing a steady circular yellow or yellow arrow signal, unless otherwise directed by a pedestrian control signal, is advised that there is insufficient time to cross the roadway before a red indication is shown, and a pedestrian may not start to cross the roadway at that time.

(3) Steady red indication means the following:

(A) Except as provided in clause (B), vehicular traffic facing a steady circular red signal alone shall stop at a clearly marked stop line. However, if there is no clearly marked stop line, vehicular traffic shall stop before entering the crosswalk on the near side of the intersection. If there is no crosswalk, vehicular traffic shall stop before entering the intersection and shall remain standing until an indication to proceed is shown.

(B) Except when a sign is in place prohibiting a turn described in this subdivision, vehicular traffic facing a steady red signal, after coming to a complete stop, may cautiously enter the intersection to do the following:

(i) Make a right turn.

(ii) Make a left turn if turning from the left lane of a one-way street into another one-way street with the flow of traffic.

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Vehicular traffic making a turn described in this subdivision shall yield the right-of-way to pedestrians lawfully within an adjacent crosswalk and to other traffic using the intersection.

(C) Unless otherwise directed by a pedestrian control signal pedestrians facing a steady circular red signal alone may not enter the roadway.

(4) No indication or conflicting indications means the following:

(A) Vehicular traffic facing an intersection having a **traffic control** signal that displays no indication or conflicting indications, where no other control is present, shall stop before entering the intersection.

(B) After stopping, vehicular traffic may proceed with caution through the intersection and shall yield the right-of-way to traffic within the intersection or approaching so closely as to constitute an immediate hazard.

(5) This section applies to traffic control signals located at a place other than an intersection. A stop required under this subdivision must be made at the signal, except when the signal is supplemented by a sign or pavement marking indicating where the stop must be made.

SECTION 14. IC 9-21-3-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 8. (a) This section does not apply at railroad grade crossings.

(b) Whenever an illuminated flashing red or yellow light is used in a traffic **control** signal or with a traffic sign, vehicular traffic shall obey the signal in the following manner:

(1) Flashing red (stop signal) means the following:

(A) When a red lens is illuminated by rapid intermittent flashes, a person who drives a vehicle shall stop at a clearly marked stop line before entering the crosswalk on the near side of the intersection.

(B) If no line exists, the person shall stop at the point nearest the intersecting roadway where the person has a view of approaching traffic on the intersecting roadway before entering the roadway.

(C) The right to proceed is subject to the rules applicable after making a stop at a stop sign.

(2) Flashing yellow (caution signal) means that when a yellow lens is illuminated with rapid intermittent flashes, a person who drives a vehicle may proceed through the intersection or past the signal only with caution.

SECTION 15. IC 9-21-3.5 IS ADDED TO THE INDIANA CODE

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AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE
JULY 1, 2001]:

Chapter 3.5. Automated Traffic Law Enforcement System

Sec. 1. This chapter does not apply to the following:

- (1) Farm wagons.
- (2) Farm tractors.
- (3) Farm machinery.

Sec. 2. As used in this chapter, "automated traffic law enforcement system" means a device:

(1) that has one (1) or more motor vehicle sensors working in conjunction with a traffic control signal that exhibits:

- (A) a steady red light as described in IC 9-21-3-7(b)(3); or
- (B) an illuminated flashing red light as described in IC 9-21-3-8(b); and

(2) that is capable of producing a photographically recorded image of a motor vehicle, including an image of the vehicle's rear license plate, as the vehicle proceeds through an intersection although the traffic control signal is exhibiting a steady red light or a flashing red light.

Sec. 3. As used in this chapter, "owner" means a person in whose name a motor vehicle is registered under:

- (1) IC 9-18;
- (2) the laws of another state;
- (3) the laws of a foreign country; or
- (4) the International Registration Plan.

Sec. 4. Notwithstanding IC 9-21-3-7 and IC 9-21-8-41, a local authority, with respect to highways under its jurisdiction, may adopt and enforce an ordinance that regulates the placement and use of automated traffic law enforcement systems.

Sec. 5. Before enforcing an ordinance adopted under section 4 of this chapter, the local authority must install advance warning signs along the roadways proceeding to the intersection at which an automated traffic law enforcement system is located.

Sec. 6. (a) An ordinance adopted under section 4 of this chapter must provide that the owner of a motor vehicle commits a violation of the local ordinance when the automated traffic law enforcement system produces a recorded image of the motor vehicle proceeding through an intersection contrary to the requirement to stop at a red light under IC 9-21-3-7(b)(3).

(b) The local authority shall mail the owner of a motor vehicle committing a violation of an ordinance adopted under section 4 of this chapter notice of the ordinance violation. The notice must



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include the following:

- (1) The name and address of the owner of the motor vehicle.
- (2) The registration number of the motor vehicle.
- (3) The violation charged.
- (4) The location of the intersection.
- (5) The date and time of the violation.
- (6) A copy of the recorded image described in subsection (a).
- (7) The amount of the civil penalty imposed for the violation.

(c) An ordinance adopted under section 4 of this chapter may not impose a civil penalty exceeding one hundred dollars (\$100).

(d) An ordinance adopted under section 4 of this chapter may authorize the local authority to mail a warning notice to the owner in lieu of imposing a civil penalty for the violation of the ordinance.

Sec. 7. (a) It is a defense in a proceeding to enforce an ordinance adopted under section 4 of this chapter if the owner:

- (1) proves that at the time of the alleged violation the owner was engaged in the business of renting or leasing vehicles under written agreements;
- (2) proves that at the time of the alleged violation the vehicle was in the care, custody, or control of a person (other than the owner or an employee of the owner) under a written agreement for the rental or lease of the vehicle for a period of not more than sixty (60) days; and
- (3) provides to the ordinance violations bureau or court that has jurisdiction the name and address of the person who was renting or leasing the vehicle at the time of the alleged violation.

(b) The owner of a vehicle may establish proof under subsection (a)(2) by submitting, within thirty (30) days after the owner receives notice by mail of the ordinance violation, a copy of the rental or lease agreement to the ordinance violations bureau or court that has jurisdiction.

(c) If the owner of a vehicle establishes the proof required under subsection (a)(2), the ordinance violations bureau or the court that has jurisdiction shall mail a notice of the ordinance violation to the person identified as the person having the care, custody, or control of the motor vehicle at the time of the violation. The proof required under subsection (a)(2) creates a rebuttable presumption that the person having the care, custody, or control of the vehicle at the time of the violation was the driver of the motor vehicle at the time of the violation. The notice required under this subsection must contain:



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- 1 (1) the information described in section 6(b) of this chapter;
 2 and
 3 (2) a statement that the person receiving the notice was
 4 identified by the owner of the motor vehicle as the person
 5 having the care, custody, or control of the motor vehicle at the
 6 time of the violation.

7 Sec. 8. (a) This section applies only to the owner of a:

- 8 (A) truck having a declared gross weight greater than
 9 eleven thousand (11,000) pounds;
 10 (B) truck tractor;
 11 (C) tractor;
 12 (D) trailer having a declared gross weight greater than
 13 three thousand (3,000) pounds; or
 14 (E) semitrailer;

15 alleged to have committed a violation of an ordinance adopted
 16 under section 4 of this chapter.

17 (b) It is a defense to a proceeding to enforce an ordinance
 18 adopted under section 4 of this chapter if the owner:

19 (1) proves that at the time of the alleged violation the vehicle
 20 was either:

- 21 (A) operated by an employee of the owner; or
 22 (B) operated by a person other than the owner or an
 23 employee of the owner:
 24 (i) under a written agreement for the rental or lease of
 25 the vehicle; or
 26 (ii) under a written agreement to transport the vehicle;

27 and;

28 (2) provides to the ordinance violations bureau or court that
 29 has jurisdiction:

- 30 (A) the name and address of the employee operating the
 31 vehicle at the time of the alleged violation; or
 32 (B) the name and address of the person operating the
 33 vehicle under a written agreement described in subdivision
 34 (1)(B) at the time of the alleged violation.

35 (c) The owner of the vehicle may establish the proof required by
 36 subsection (b) by submitting, within sixty (60) days after the owner
 37 receives notice by mail of the ordinance violation, a copy of:

- 38 (1) a document establishing that the employee identified under
 39 subsection (b)(2)(A) was operating the vehicle at the time of
 40 the alleged violation; or
 41 (2) both of the following:
 42 (A) The written agreement described in subsection



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1 (b)(1)(B).

2 (B) Documentation establishing that the person identified
3 under subsection (b)(2)(B) was operating the vehicle at the
4 time of the alleged violation.

5 (d) If the owner of a vehicle establishes the proof required under
6 subsection (b), the ordinance violations bureau or the court that
7 has jurisdiction shall mail a notice of the ordinance violation to the
8 person identified as the person operating the vehicle at the time of
9 the violation. The proof required under subsection (b) creates a
10 rebuttable presumption that the person identified in the
11 documentation required under subsection (c) was the operator of
12 the vehicle at the time of the violation. The notice required under
13 this subsection must contain:

14 (1) the information described in section 6(b) of this chapter;
15 and

16 (2) a statement that the person receiving the notice was
17 identified by the owner of the vehicle as the person operating
18 the vehicle at the time of the violation.

19 Sec. 9. (a) This subsection applies to an owner other than an
20 owner described in sections 7 and 8 of this chapter.

21 (b) It is a defense to a proceeding to enforce an ordinance
22 adopted under section 4 of this chapter if the owner provides to the
23 ordinance violations bureau or court that has jurisdiction the
24 following:

25 (1) An affidavit signed under the penalties of perjury that
26 neither the owner nor a member of the owner's immediate
27 family was driving the motor vehicle at the time of the alleged
28 violation.

29 (2) An affidavit signed under the penalties of perjury stating
30 either of the following:

31 (A) The name and address of the person driving the motor
32 vehicle at the time of the alleged violation.

33 (B) That either the motor vehicle or the license plate of the
34 motor vehicle had been stolen before the alleged violation
35 occurred and was not under the control or possession of
36 the owner at the time of the alleged violation. In addition
37 to the affidavit described in this clause, the owner must
38 submit proof that a police report was filed concerning the
39 stolen motor vehicle or stolen license plate.

40 (c) If the owner of a vehicle submits the evidence required under
41 subsection (b)(2)(A), the ordinance violations bureau or the court
42 that has jurisdiction shall mail a notice of the ordinance violation

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1 to the person identified as the person driving the motor vehicle at
 2 the time of the violation. The evidence required under subsection
 3 (b)(2)(A) creates a rebuttable presumption that the person
 4 identified in the affidavit required under subsection (b)(2)(A) was
 5 the driver of the motor vehicle at the time of the violation. The
 6 notice required under this subsection must contain:

7 (1) the information described in section 6(b) of this chapter;
 8 and

9 (2) a statement that the person receiving the notice was
 10 identified by the owner of the motor vehicle as the person
 11 driving the motor vehicle at the time of the violation.

12 **Sec. 10.** It is a defense to a proceeding to enforce an ordinance
 13 adopted under section 4 of this chapter that any of the following
 14 apply:

15 (1) IC 9-21-1-8(b)(2) (a person driving an authorized
 16 emergency vehicle may proceed past a red or stop signal or
 17 stop sign after slowing down as necessary for safe operation).

18 (2) IC 9-21-3-7(b)(4) (traffic control signal lights are giving no
 19 indication or conflicting indications).

20 (3) IC 9-21-13-1 (vehicle with lighted headlights is in a funeral
 21 procession).

22 **SECTION 16.** IC 9-13-2-117 IS REPEALED [EFFECTIVE JULY
 23 1, 2001].

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SENATE MOTION

Mr. President: I move that Senator Craycraft be added as coauthor of Senate Bill 4.

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COMMITTEE REPORT

Mr. President: The Senate Committee on Transportation and Interstate Cooperation, to which was referred Senate Bill No. 4, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 7, line 23, delete "or".

Page 7, line 24, delete "." and insert "; or".

Page 7, between lines 24 and 25, begin a new line block indented and insert:

"(4) the International Registration Plan."

Page 7, between lines 28 and 29, begin a new paragraph and insert:

"Sec. 5. Before enforcing an ordinance adopted under section 4 of this chapter, the local authority must install advance warning signs along the roadways proceeding to the intersection at which an automated traffic law enforcement system is located."

Page 7, line 29, delete "5." and insert "6. (a)".

Page 7, between lines 34 and 35, begin a new paragraph and insert:

"(b) The local authority shall mail the owner of a motor vehicle committing a violation of an ordinance adopted under section 4 of this chapter notice of the ordinance violation. The notice must include the following:

- (1) The name and address of the owner of the motor vehicle.**
- (2) The registration number of the motor vehicle.**
- (3) The violation charged.**
- (4) The location of the intersection.**
- (5) The date and time of the violation.**
- (6) A copy of the recorded image described in subsection (a).**
- (7) The amount of the civil penalty imposed for the violation.**

(c) An ordinance adopted under section 4 of this chapter may not impose a civil penalty exceeding one hundred dollars (\$100).

(d) An ordinance adopted under section 4 of this chapter may authorize the local authority to mail a warning notice to the owner in lieu of imposing a civil penalty for the violation of the ordinance."

Page 7, line 35, delete "6." and insert "7."

Page 8, between lines 11 and 12, begin a new paragraph and insert:

"(c) If the owner of a vehicle establishes the proof required under subsection (a)(2), the ordinance violations bureau or the court that has jurisdiction shall mail a notice of the ordinance violation to the person identified as the person having the care, custody, or control of the motor vehicle at the time of the violation.



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The proof required under subsection (a)(2) creates a rebuttable presumption that the person having the care, custody, or control of the vehicle at the time of the violation was the driver of the motor vehicle at the time of the violation. The notice required under this subsection must contain:

- (1) the information described in section 6(b) of this chapter; and
- (2) a statement that the person receiving the notice was identified by the owner of the motor vehicle as the person having the care, custody, or control of the motor vehicle at the time of the violation.

Sec. 8. (a) This section applies only to the owner of a:

- (A) truck having a declared gross weight greater than eleven thousand (11,000) pounds;
- (B) truck tractor;
- (C) tractor;
- (D) trailer having a declared gross weight greater than three thousand (3,000) pounds; or
- (E) semitrailer;

alleged to have committed a violation of an ordinance adopted under section 4 of this chapter.

(b) It is a defense to a proceeding to enforce an ordinance adopted under section 4 of this chapter if the owner:

- (1) proves that at the time of the alleged violation the vehicle was either:
 - (A) operated by an employee of the owner; or
 - (B) operated by a person other than the owner or an employee of the owner:
 - (i) under a written agreement for the rental or lease of the vehicle; or
 - (ii) under a written agreement to transport the vehicle;

and;

(2) provides to the ordinance violations bureau or court that has jurisdiction:

- (A) the name and address of the employee operating the vehicle at the time of the alleged violation; or
- (B) the name and address of the person operating the vehicle under a written agreement described in subdivision (1)(B) at the time of the alleged violation.

(c) The owner of the vehicle may establish the proof required by subsection (b) by submitting, within sixty (60) days after the owner receives notice by mail of the ordinance violation, a copy of:

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(1) a document establishing that the employee identified under subsection (b)(2)(A) was operating the vehicle at the time of the alleged violation; or

(2) both of the following:

(A) The written agreement described in subsection (b)(1)(B).

(B) Documentation establishing that the person identified under subsection (b)(2)(B) was operating the vehicle at the time of the alleged violation.

(d) If the owner of a vehicle establishes the proof required under subsection (b), the ordinance violations bureau or the court that has jurisdiction shall mail a notice of the ordinance violation to the person identified as the person operating the vehicle at the time of the violation. The proof required under subsection (b) creates a rebuttable presumption that the person identified in the documentation required under subsection (c) was the operator of the vehicle at the time of the violation. The notice required under this subsection must contain:

(1) the information described in section 6(b) of this chapter; and

(2) a statement that the person receiving the notice was identified by the owner of the vehicle as the person operating the vehicle at the time of the violation.

Sec. 9. (a) This subsection applies to an owner other than an owner described in sections 7 and 8 of this chapter.

(b) It is a defense to a proceeding to enforce an ordinance adopted under section 4 of this chapter if the owner provides to the ordinance violations bureau or court that has jurisdiction the following:

(1) An affidavit signed under the penalties of perjury that neither the owner nor a member of the owner's immediate family was driving the motor vehicle at the time of the alleged violation.

(2) An affidavit signed under the penalties of perjury stating either of the following:

(A) The name and address of the person driving the motor vehicle at the time of the alleged violation.

(B) That either the motor vehicle or the license plate of the motor vehicle had been stolen before the alleged violation occurred and was not under the control or possession of the owner at the time of the alleged violation. In addition to the affidavit described in this clause, the owner must

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submit proof that a police report was filed concerning the stolen motor vehicle or stolen license plate.

(c) If the owner of a vehicle submits the evidence required under subsection (b)(2)(A), the ordinance violations bureau or the court that has jurisdiction shall mail a notice of the ordinance violation to the person identified as the person driving the motor vehicle at the time of the violation. The evidence required under subsection (b)(2)(A) creates a rebuttable presumption that the person identified in the affidavit required under subsection (b)(2)(A) was the driver of the motor vehicle at the time of the violation. The notice required under this subsection must contain:

- (1) the information described in section 6(b) of this chapter; and
- (2) a statement that the person receiving the notice was identified by the owner of the motor vehicle as the person driving the motor vehicle at the time of the violation."

Page 8, line 12, delete "7." and insert "10."

and when so amended that said bill do pass.

(Reference is to SB 4 as introduced.)

RIEGSECKER, Chairperson

Committee Vote: Yeas 8, Nays 0.

C
o
p
y

